IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF SOUTH CAROLINA

Benjamin Stiles Mikell, Jr.,) Civil Action No.: 0:18-645-BHH
Plaintiff,))
v.)) <u>ORDER</u>
Andrew M. Saul, Commissioner of Social Security,)))
Defendant.)))

This matter is before the Court on Plaintiff Benjamin Stiles Mikell's ("Plaintiff") complaint filed pursuant to 42 U.S.C. § 405(g), seeking judicial review of the Commissioner of Social Security's final decision, which denied Plaintiff's claim for disability insurance benefits. The record includes the report and recommendation ("Report") of a United States Magistrate Judge, which was made in accordance with 28 U.S.C. § 636(b)(1)(B) and Local Civil Rule 73.02(B)(2)(a), D.S.C. In the Report, which was filed on June 18, 2019, the Magistrate Judge recommends that the Court reverse the Commissioner's decision pursuant to sentence four of 42 U.S.C. § 405(g) and remand the case to the Commissioner for further consideration as set forth in the Report. In a notice filed on July 2, 2019, Defendant informed the Court that he will not be filing objections to the Magistrate Judge's Report.

The Magistrate Judge makes only a recommendation to the Court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the Court. *Mathews v. Weber*, 423 U.S. 261 (1976). The Court is charged with making a de novo determination only of those portions of the Report to

which specific objections are made, and the Court may accept, reject, or modify, in whole

or in part, the recommendation of the Magistrate Judge, or recommit the matter to the

Magistrate Judge with instructions. 28 U.S.C. § 636(b)(1). In the absence of specific

objections, the Court reviews the matter only for clear error. See Diamond v. Colonial Life

& Accident Ins. Co., 416 F.3d 310, 315 (4th Cir. 2005) (stating that "in the absence of a

timely filed objection, a district court need not conduct a de novo review, but instead must

'only satisfy itself that there is no clear error on the face of the record in order to accept the

recommendation.") (quoting Fed. R. Civ. P. 72 advisory committee's note).

Here, because no objections were filed, the Court has reviewed the record, the

applicable law, and the findings and recommendations of the Magistrate Judge for clear

error. Finding none, the Court hereby adopts and incorporates the Report (ECF No. 28).

Therefore, it is **ORDERED** that the decision of the Commissioner of Social Security is

reversed pursuant to sentence four of 42 U.S.C. § 405(g), and this case is remanded to

the Commissioner for further proceedings as set forth in the Report.

IT IS SO ORDERED.

/s/Bruce H. Hendricks

The Honorable Bruce Howe Hendricks

United States District Judge

July 3, 2019

Charleston, South Carolina

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